



Hendry County Sheriff's Office

General Order 19.11

TITLE: Risk Protection Order	SHERIFF'S APPROVAL: Digital
ORIGINATION DATE: July 20, 2018	REVISION DATE: May 24, 2019
RELATED REFERENCES: §790.401, F.S., <i>Marjory Stoneman Douglas High School Public Safety Act</i> CFA: 24.06	
REVIEW FREQUENCY: 3 YEARS	DATE OF NEXT REVIEW: May 24, 2022

I. PURPOSE: To establish guidelines for handling risk protection orders.

II. SCOPE: This order shall apply to all sheriffs' office members.

III. POLICY: Hendry County Sheriff Office shall adhere to the process for a law enforcement officer to petition a court for a Risk Protection Order (RPO) to temporarily prevent a person from accessing a firearm when there is evidence that he or she poses a significant danger to himself or herself or others.

This allows a law enforcement officer or agency to petition the court for a temporary and/or long term RPO. The process is similar to domestic violence injunctions in that a law enforcement officer or agency first obtains an ex parte temporary RPO and then, after a hearing, a final or long term RPO may be issued. A long term RPO issued under the Act may last up to 12 months.

IV. PROCEDURE:

A. Requirements listed below must be met.

1. To obtain an RPO, a law enforcement officer or agency must file a petition alleging that the respondent poses a significant danger of causing personal injury to himself or others by:
 - a. Having a firearm or ammunition in his custody or control; or
 - b. Purchasing, possessing, or receiving a firearm or ammunition.
2. The petition must be accompanied by an affidavit under oath which includes the specific statements, actions, or facts that give rise to a reasonable fear of significant dangerous acts by the respondent.
3. It must identify the quantities, types, and locations of all firearms and ammunition the petitioner believes to be in the respondent's current possession, ownership, custody, or control.

4. It must state whether there is a known existing protection order governing the respondent for domestic violence, dating violence, sexual violence, or stalking.
5. The address of appropriate law enforcement agency requesting the RPO.
6. Attestation that the HCSO has provided such notices or list the steps that will be taken to notice a family or household member.

B. Process for an RPO.

1. Law Enforcement

- a. Upon initiating a Baker Act and there are firearms to be seized for safe-keeping, include in the narrative that you request follow-up with a RPO.

(1) Criminal Investigation Division should be called immediately to determine response needed or forward the information for follow-up where a petition can be completed and a judge can determine whether the weapons and ammunition should be held for a longer period.

- b. Should a deputy be called to a scene and there are specific statements, actions, or facts that give rise to a reasonable fear of significant dangerous acts by the respondent, include in the narrative that you request follow-up with a RPO.

(1) Criminal Investigation Division should be called immediately to determine response needed or forward the information for follow-up where a petition can be completed.

2. Criminal Investigation Division

- a. An Investigator will complete a petition and assure that all requirements are met and affidavits are attached.
- b. Affidavits under oath, certified documents, will contain facts that will support each allegation in the petition.
- c. A list identifying the quantities, types and location of firearms and ammunition believed to be owned or in possession or control of respondent.
- d. A statement identifying whether there is a known or existing protection order governing the respondent.
- e. Petition must contain address of appropriate law enforcement agency seeking petition.
- f. An investigator will notice, or make good faith effort to notice, family or household member of the respondent and any known third party that may be a risk of violence.
- g. File the petition and accompanying affidavits, documents with the clerk of court.

C. Approved RPO

1. Once received an approved RPO:

- a. Enter into FCIC/NCIC as soon as received

b. Enter into Record Management System

c. Serve RPO on respondent

- (1) When serving an ex parte order for involuntary examination, an officer may use reasonable force to gain entry to the premises, and any dwellings, buildings, or other structures located on the premises, and take custody of the person who is the subject of the ex parte order, where the person subject to the order is located. Under certain conditions, firearms, ammunition, and concealed carry license, may be seized from the person (e.g., RPO) or voluntarily surrendered by the person who is the subject of the ex parte order.

d. Firearms and Ammunition

- (1) Take custody or control of all firearms and ammunition and any license to carry a concealed weapon or firearms issued under Florida Statutes 790.06.

- a. Give evidence receipt for all firearms, and quantity and types of ammunition taken.

- b. File the original with the Clerk of Court.

- (2) Proof that firearms have been surrendered.

- a. A respondent may elect to transfer all seized or surrendered firearms and ammunition to another person willing to receive them. The transfer must be allowed if the recipient:

- i. Is eligible to own or possess a firearm and ammunition under federal and state law (confirmed through a background check);

- ii. Complete form Owner Requests to Transfer to Third Party, attesting to the storing of the firearm and ammunition in a way the respondent does not control or have access to; and

- iii. Complete form Owner Requests to Transfer to Third Party, attesting not to transfer the firearm and ammunition to the respondent until the RPO is vacated or ends without extension.

- b. File a copy with the Clerk of Court.

- (3) If a respondent fails to surrender the firearms or ammunition, law enforcement may seek a search warrant based on probable cause to believe there are firearms or ammunition owned by the respondent in their custody, control, or possession (have not been surrendered). The location of those items must be listed.

- (4) Voluntarily surrendered must be returned (after request) to the person no later than 24 hours after they can document that they are no longer subject to involuntary examination and have been released from any inpatient or outpatient treatment, unless an RPO is in place or the person is otherwise prohibited by law from possessing a firearm or ammunition.

- (5) HCSO must also provide notice to any family or household members of the respondent before the return of any surrendered firearm and ammunition owned by the respondent.

V. GLOSSARY:

PETITIONER – A law enforcement officer or a law enforcement agency that petitions a court for a risk protection order under this section.

RESPONDENT – The individual who is identified as the respondent in a petition filed under this section.

RISK PROTECTION ORDER – A temporary ex parte order or a final order granted under this section.

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